

REMARKS

Claims 1-8 and 39-61 are currently pending in the subject application and are presently under consideration. A version of all pending claims can be found at pages 2-9 of this Reply.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein.

I. Rejection of Claims 1-8 and 39-61 Under 35 U.S.C. §103(a)

Claims 1-8 and 39-58 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Obrect (US 7,630,919). Withdrawal of this rejection is respectfully requested for at least the following reasons. Obrect does not disclose or suggest all claimed elements.

A rationale to support a conclusion that a claim would have been obvious is that *all the claimed elements were known in the prior art* and one skilled in the art could have combined the elements as claimed *by known methods with no change in their respective functions, and the combination would have yielded nothing more than predictable results to one of ordinary skill in the art.* *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385, 1395 (2007).

The disclosed subject matter relates to multiple criterion buying and selling mechanisms that can match criteria about the product input by a buyer with criteria about the product input by a seller in order to output to the buyer (in real time) a list of seller defined deals that match or correlate with the criteria defined by the buyer. (*See e.g.*, pg. 7, line 28 – pg. 8, line 10; pg. line 26 – pg. 12, line 21; FIGS. 4a-4c). While deals are correlated by matching criteria between a buyer and seller, both parties can define their own criteria (*see* page 11, lines 4-7; page 16, lines 15-21; FIG. 4a, element 160; FIG. 8b, element 303). Hence, it is possible that buyers define criteria sellers had not contemplated, yet matching can still be performed (e.g., on selected criteria). Moreover, the seller can be notified of buying criteria that does not match the seller criteria (*see e.g.*, pg. 2, ll. 24-25; pg. 11, ll. 12-15). Thus, sellers are afforded a convenient and powerful mechanism to gain insight into what criteria is important to buyers, of which the sellers may not have listed in their own criteria, or even be aware it would be of interest to buyers. For example, if buyers often list a warranty in their buying criteria, then the seller might be able to

make more sales by including warranty information in the seller criteria and/or improving the standard warranty to solicit more buyers, since the seller now knows this feature is often important to buyers buying the product. In particular, independent claim 51 recites, “displaying *in real time* any offers where the order criteria for seller criteria selected by the potential buyer correspond to offer criteria for seller criteria input by a potential seller; and providing the potential seller with *buyer criteria* that fail to match any *seller criteria* input by the potential seller.” Similarly, independent claim 1 recites, “notifying the seller of the at least one of a product or service when the *buying criteria* does not match the *seller criteria*; and outputting a list of deals *in real time* from amongst the plurality of deals that match the price and non-price buying criteria of the buyer;” independent claim 40 recites, “the at least one seller outputs a list of deals *in real time* when a plurality of price and non-price buying criteria defined by the buyer matches a plurality of price and non-price selling criteria defined by the seller... alerting the at least one seller of the at least one good or service when *at least one buyer criterion* of the plurality of price and non-price buying criteria fails to match *any portion of the plurality of price and non-price selling criteria*;” independent claim 50 recites, “means for conducting a sale of the product or service *in real time* when the offering criteria matches the ordering criteria and informing the seller when *buying criteria* does not match *selling criteria*;” and independent claim 52 recites, “outputting *in real time* offers in which the offer criteria matches the order criteria; and reporting to a seller of the particular good or service *buyer criteria* that does not match *seller criteria*.” Obrecht does not disclose or suggest these features.

Rather, Obrecht relates to a method for purchasing goods or services from a seller by a buyer. Specifically, Obrecht discloses the buyer initiates a request for quote (RFQ) and transmits the RFQ to a central server (FIG. 2, element S1), from which parameters for a seller selection process (SSP) are determined (FIG. 2, element S3) by the server. Based upon the SSP, the server compiles a list of sellers, and the RFQ from the buyer is transmitted to the list of sellers (FIG. 2, elements S4 and S5). At this point, the sellers must evaluate the RFQ and determine a suitable reply (i.e., a product information quote (PIQ)) based upon such evaluation (FIG. 2, element S6). The PIQs are transmitted to the server, whereupon these PIQs are examined in order to rank the sellers, and the consumer quote report (CQR) including the PIQs and associated seller rankings are delivered to the buyer (FIG. 2, elements S8-S10).

With reference to independent claim 52, Obrecht fails to teach or suggest all features of

the claim in at least five distinct ways. First, independent claim 52 recites, “displaying to a potential buyer *a list of goods or services offered by a potential seller*, the displaying including both seller criteria and offer criteria.” Obrecht is silent as to these features, and in fact teaches away from such by indicating that the buyer independently chooses a product (identified in a RFQ), and behind the scenes the central server identifies all sellers of that product (col. 5, ll. 51-54). Second, independent claim 52 recites, “*displaying seller criteria based upon a selection of a particular good or service from the list*, the seller criteria is determined prior to receiving buyer criteria.” Obviously, since Obrecht does not provide for a list of goods or services offered by a potential seller, Obrecht therefore cannot display “seller criteria based upon” a selection from the list. Third, independent claim 52 recites, “displaying seller criteria based upon a selection of a particular good or service from the list, *the seller criteria is determined prior to receiving buyer criteria*.” However, Obrecht takes the approach of directing a buyer to first submit criteria about a particular product (which is transmitted to suitable sellers of that product), **after** which the suitable sellers can respond with its own criteria. Thus, the first point in which seller criteria (as defined by claim 52, et al.) can be received in the system of Obrecht is after receiving buyer criteria, yet claim 52 expressly recites, “*the seller criteria is determined prior to receiving buyer criteria*.”

Fourth, independent claim 52 recites, “outputting **in real time** offers in which the offer criteria matches the order criteria.” Obrecht does not output offers in real time, and is not designed for such given necessary delays such as, e.g., expecting the seller to evaluate the RFQ and determine how to populate the PIQ (FIG. 2, element S3) or to transcribe the RFQ into the ALMES system (FIG. 2, elements S1-S2; col. 5, ll. 14-17). In fact, Obrecht itself indicates a time of about 90 minutes between submitting an RFQ to outputting relevant information to the buyer, which is not **in real time** (col. 4, ll. 38-41). Fifth, independent claim 52 recites, “reporting to a seller of the particular good or service buyer criteria **that does not match** seller criteria.” Obrecht is silent as to these features, and the Examiner provides no evidence or citation to the contrary. It appears the RFQ is based upon a standardized form (e.g., FIG. 10), in which case no buyer criteria will ever be presented to the seller, much less buyer criteria that does not match seller criteria. The most that can be argued is that Obrecht is capable of reporting to the seller order criteria that does not match offer criteria, but even that is doubtful since, to be true, would mean that the central server operates in an undisclosed manner during the seller selection process

(FIG. 2, element S3).

For at least the foregoing reasons, independent claim 52 is allowable over the art of record. In addition, independent claims 1, 40, 47, 50, and 51 are allowable over Obrecht for at least all or a portion of the reasons provided *supra* with respect to independent claim 52. Furthermore, independent claim 40 recites, “providing access *via* the web site to at least one buyer and at least one seller to carry out the sale, the at least one seller outputs a list of deals in real time *when a plurality of price and non-price buying criteria defined by the buyer matches a plurality of price and non-price selling criteria defined by the seller.*” Independent claims 1, 47, 50, and 51 recite similar limitations.

Appreciably, in order to match or correlate any criterion from a buyer with that of a seller (as claimed in independent claims 1, 40, 47, 50, and 51, the matching mechanism must have access to such data provided by both buyer and seller. However, Obrecht takes the approach of allowing a buyer to submit criteria about a particular product (which is transmitted to suitable sellers of that product), after which the seller can respond with its own criteria. Thus, no matching is performed by Obrecht with respect to qualities or characteristics of the product (e.g., seller criteria and buyer criteria), but rather only based upon whether or not the seller sells the product and/or whether or not the seller operates in the geographic market of the buyer, is not in arrears to the central server, or has a suitable consumer satisfaction rating (FIGS. 11 and 12). Accordingly, independent claims 1, 40, 47, 50, and 51, as well as associated dependent claims are allowable for yet another reason, and this rejection of all claims should therefore be withdrawn.

II. Response to Arguments

At page 2, the Final Office Action (dated February 23, 2010) merely paraphrases a portion of a single claim and concludes Obrect discloses all features of all claims but for “distribution criteria”, citing the reference in its entirety as support. Applicant’s representatives duly responded with at least six distinct claimed features illustrating in detail various shortcomings of Obrect with respect to the claims, with these distinct claimed features provided *supra* in §1 and also found in the Reply to Final Office Action (filed May 3, 2010). In response, page 2 of the Advisory Action (dated May 19, 2010) appears to briefly addresses three of the six distinctions with conclusory statements that appear to have little meaning with respect to the

claims or the art of record relied upon to support the 35 USC 103(a) rejection, or with respect to supporting the rejection.

In particular, the Advisory Action argues the following:

(1) “There is no specific sequential order for correlating the seller criteria in juxtaposition with the buyer criteria from the claims.” However, applicant’s representatives have not argued the claims recite features relating to a specific sequential order for correlating criteria. Rather, what is argued is a particular order in which various criteria is received and/or input. For example, it is logical to expect a seller to provide criteria in advance of a buyer when the buyer plans on searching for a desired product with desired features even though the buyer might add his or her own criteria not readily selectable from the previously received seller criteria (e.g., criteria upon which to base a search). In contrast, Obrect provides no disclosure of searching or the ability of a buyer to select various product features (e.g., from previously received seller criteria), but rather indicates that buyers initially submit a RFQ. The fact that Obrect operates in an opposite manner in this regard as what applicant discloses is amply illustrated by portions of claims 52 and 54, which substantially recite, “the seller criteria is determined *prior* to receiving buyer criteria.” Moreover, it is in fact impossible for Obrect to disclose these features as Obrect does not disclose any reasonable element that can represent **buyer** criteria (as defined in the claims), but instead only what can be reasonably interpreted as **order** criteria.

(2) “It is noted that the phrase real time has a broad scope as to its meaning, e.g. it need not be instantaneous.” While applicant’s representatives do not necessarily disagree with the above statement, it should be appreciated that on the order of approximately 90 minutes (the amount of time Obrect expressly indicates should be expected for a response to an RFQ (see col. 4, ll. 40-41)) is not within a reasonable interpretation of “real time”. Therefore, Obrect does indeed fail with respect to the claimed features relating to “real time” results as detailed *supra*.

(3) “Also, the term matching is broad in scope and meaning.” Again, applicant’s representatives do not necessarily disagree, however, what is pertinent here is two-fold. First, Obrect does not appear to disclose any reasonably similar matching (or correlation) as that disclosed in the claims, irrespective of any reasonably broad interpretation in scope or meaning. Second, even if it is determined that Obrect discloses some vague form of matching, such does not support a rejection of the claims, as the claims do not merely recite “matching”. Rather, all appropriate claims further indicate the elements that are matched, of which Obrect is silent.

For at least the foregoing reasons, it is readily apparent that Obrect is insufficient to support this rejection, and further that the Examiner has particularly failed to make a prima facie case for rejection based upon obviousness grounds.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063[GEDP106US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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